



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 28 2015

Mr. Caleb Crosby, Treasurer
Pridemore for Congress
270 Cobb Parkway S#140-304
Marietta, GA 30060

RE: MUR 6762

Dear Mr. Crosby:

On December 2, 2013, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On May 19, 2015, based upon the information contained in the complaint, and information provided by you, the Commission decided to dismiss the allegation that Pridemore for Congress used contributor information obtained from Commission disclosure reports to solicit contributions, in violation of 52 U.S.C. § 30111(a)(4) and 11 C.F.R. § 104.15. Accordingly, the Commission closed its file in this matter on May 19, 2015.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Wanda Brown, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

General Counsel

BY: Jeff S. Jordan
Assistant General Counsel
Complaints Examination and
Legal Administration

Enclosure
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 RESPONDENT: Pridemore for Congress and Tricia Pridemore MUR: 6762
6 in her official capacity as treasurer
7

8 **I. INTRODUCTION**

9 This matter was generated by a complaint, *see* 52 U.S.C. § 30109(a)(1) (formerly
10 2 U.S.C. § 437g(a)(1)), alleging that Respondents violated the Act and Commission regulations
11 by using contributor information obtained from the Commission's disclosure reports to solicit
12 contributions, in violation of 52 U.S.C. § 30111(a)(4) (formerly 2 U.S.C. § 438(a)(4)) and
13 11 C.F.R. § 104.15. Compl. at 1-2. Because the Commission concludes that further enforcement
14 action would not be an efficient use of the Commission's resources, it exercises its prosecutorial
15 discretion to dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

16 **II. FACTUAL AND LEGAL ANALYSIS**

17 **A. Facts**

18 Pridemore for Congress ("the Committee" or "Respondents") is the principal campaign
19 committee for Tricia Pridemore, 2014 candidate for Georgia's 11th Congressional District. The
20 contributor information in question was disclosed in reports filed by Barr Congress, Inc. (the
21 "Barr Committee"), the principal campaign committee for Bob Barr, one of Pridemore's
22 opponents. Specifically, the Barr Committee claims that it included fictitious names on its
23 2013 July Quarterly Report to detect the impermissible use of individual contributor information
24 by outside organizations. Compl., Attach. A. Included among the fictitious names was
25 who purportedly resided and worked as a
26 . Compl. at 1. The Barr Committee alleges that the Committee sent
27 this fictitious donor a campaign advertisement and an invitation to a fundraising event supporting

1 Pridemore's campaign. *Id.* The Complaint included a copy of the mailing addressed to
2 postmarked November 2, 2013, which included a
3 fundraising solicitation card and a return envelope addressed to the Respondents. Compl.,
4 Attach. C. Complainant alleges that the identity and address of was only disclosed to the
5 public in the Barr Committee FEC disclosure reports. Compl. at 2.¹ There is no available
6 information indicating that the mailing was sent to the other two names "salted" in the Barr
7 Committee's reports.

8 Respondents argue that the complaint is based on the Barr Committee's mistaken belief
9 that it included a fictitious contributor named in its disclosure report. Respondents
10 state that is not a fictitious donor, but rather is an active contributor and Pridemore
11 supporter who became acquainted with the Committee in June of 2013 and made two
12 contributions to the Committee on September 5, 2013, and December 10, 2013.² Resp. at 1-2.
13 In its disclosure reports, the Committee reported address in and
14 reported his occupation as 2013 October Quarterly and Year-End Reports,
15 Schedule A (FEC Form 3) Itemized Receipts. In addition, the Committee states that and
16 his wife hosted a December 15, 2013, birthday party and fundraising event for the candidate.
17 Resp. at 2. Respondents claim that the data used to generate the solicitation mailing list would
18 have included name and the address based on his interactions with,
19 and initial contributions made to, the Committee. *Id.*

¹ On July 22, 2014, by a letter to the Commission, the Complainant in this matter requested that the complaint be withdrawn because Barr Congress "does not believe that the interests of justice are furthered by pursuit of this matter." Letter from Stefan Passantino to Frankie Hampton, FEC (July 22, 2014).

² The complaint claims that made the second contribution on December 10, 2013. However, the Committee's disclosure reports indicate that the contribution was made on December 13, 2013.

1 The Committee “denies that it would have solicited individuals who previously
2 contributed to Barr Congress, Inc. because those individuals would be predisposed against
3 contributing to a direct rival.” Resp. at 4. However, the Committee does not explain how the
4 solicitation in question was sent to at the fictitious address listed in the
5 Barr Committee’s disclosure reports, rather than to the address that it listed in
6 its own disclosure reports for previous donations from

7 The response includes a sworn affidavit from Sean Donnelly, the President and CEO of
8 Five Points Consulting, who served as a consultant to the Committee. *See* Resp. Attach. A.
9 Donnelly claims that a subcontractor was responsible for the preparation and mailing of the
10 solicitation materials that are at issue in this matter. *Id.* at ¶ 9. Donnelly explains that the
11 subcontractor collected multiple lists from the Committee and “other sources,” and that those
12 lists were provided to a FedEx office to prepare the final mailing list used to send the solicitation
13 materials at issue. *Id.* at ¶ 10. According to Donnelly, FedEx combined the lists, removed
14 duplicate entries among the lists, and if there were entries with conflicting information,
15 reconciled those conflicts to produce a final mailing list. *Id.* at ¶ 12. Donnelly also stated that
16 the subcontractor does not believe that FedEx identified conflicting entries to the subcontractor
17 or indicated how each conflict was resolved. *Id.* Donnelly attests that neither he nor the
18 Committee have complete copies of the lists the subcontractor provided to FedEx Office and
19 neither the subcontractor nor the Committee retained a final copy of the mailing list. *Id.* at ¶ 11,
20 13. Donnelly, therefore, avers that he is unable to determine whether or how the fictitious
21 address was included in the solicitation mailing. *Id.* at ¶ 15.

22 Donnelly further states that the materials were sent to approximately 1,000 people on or
23 around November 2, 2013. *Id.* at ¶ 13. The total cost to prepare and send the entire mailing was

1 \$984.15. *Id.* The Committee requests that because of the *de minimis* nature of the alleged
2 violation that the Commission dismiss this matter. Resp. at 6.

3 **B. Analysis**

4 Political committees are required to file reports with the Commission identifying the
5 names and mailing addresses of contributors who make contributions exceeding \$200 during the
6 election cycle, 52 U.S.C. § 30104(b)(3)(A) (formerly 2 U.S.C. § 434(b)(3)(A)); 11 C.F.R.

7 § 104.8(a). The Act provides that the Commission shall make reports and statements filed with it
8 available to the public for inspection and copying within 48 hours after receipt. 52 U.S.C.

9 § 30111(a)(4) (formerly 2 U.S.C. § 438(a)(4)). Any information copied from such reports or
10 statements, however, “may not be sold or used by any person for the purpose of soliciting
11 contributions or for commercial purposes,” other than using the name and address of a political
12 committee to solicit contributions from that political committee. *Id.*; *see also* 11 C.F.R.

13 § 104.15(a). “Soliciting contributions” includes soliciting any type of contribution or donation,
14 such as political or charitable contributions. 11 C.F.R. § 104.15(b).

15 Respondents do not admit that they used contributor information derived from FEC
16 reports. However, they cannot explain how the “salted” address became a part of the list for the
17 mailing in question. Instead, the Committee claims that it intended to send the solicitation to a
18 different individual with the same name who was active in the campaign. However, the
19 materials and solicitation in question were sent to an address that was “salted” in the Barr
20 Committee’s disclosure reports.

21 Nevertheless, given the limited scope of the alleged violation we do not believe that it
22 would be an efficient use of Commission resources to further pursue this matter. In light of these
23 facts, the Commission exercises its discretion and dismisses the matter.